

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 171

Introduced by Senator Bowen

February 12, 2003

An act to add Section ~~742~~ *1756.4* to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 171, as amended, Bowen. Public ~~utilities~~ *Utilities Commission: judicial review.*

~~Existing law authorizes the Public Utilities Commission to supervise and regulate every public utility in the state.~~

~~This bill would declare the intent of the Legislature to establish policies, in subsequent legislation, to reform the regulation of public utilities.~~

Existing law authorizes any aggrieved party to petition the court of appeal or the Supreme Court, within specified time limits, to review a decision of the Public Utilities Commission. Existing law circumscribes the scope of review, based on the nature of the proceeding.

This bill, with respect to an order or decision of the commission that interprets a provision of the Public Utilities Code, would authorize any aggrieved party to petition the court of appeal or the Supreme Court, within specified time limits, to review a decision of the commission. The bill would require the receiving court to grant review. The bill would prohibit any new or additional evidence from being introduced upon review by the court, and would prohibit the review by the court from extending further than to determine whether, in the interpretation of a provision of the Public Utilities Code, the commission acted without, or in excess of, its powers or jurisdiction or has not proceeded in the

manner required by law, or whether the order or decision of the commission violates any right of the petitioner under the Constitution of the United States or the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 712 is added to the Public Utilities~~

SECTION 1. Section 1756.4 is added to the Public Utilities Code, to read:

1756.4. (a) Notwithstanding Section 1756, the following shall apply to an order or decision of the commission that interprets a provision of this code:

(1) Within 30 days after the commission issues its decision denying the application for a rehearing, or, if the application was granted, then within 30 days after the commission issues its decision on rehearing, or at least 120 days after the application is granted if no decision on rehearing has been issued, any aggrieved party may petition for a writ of review in the court of appeal or the Supreme Court for the purpose of having the lawfulness of the commission's interpretation of a provision of this code in the original order or decision or of the order or decision on rehearing inquired into and determined. The receiving court shall issue the writ, which shall be made returnable at a time and place specified by court order and shall direct the commission to certify its record in the case to the court within the time specified.

(2) The petition for review shall be served upon the executive director of the commission either personally or by service at the office of the commission.

(3) For purposes of this section, the issuance of a decision or the granting of an application shall be construed to have occurred on the date when the commission mails the decision or grant to the parties to the action or proceeding.

(4) The venue of a petition filed in the court of appeal pursuant to this section shall be in the judicial district in which the petitioner resides. If the petitioner is a business, venue shall be in the judicial district in which the petitioner has its principal place of business in California.

1 (5) Any party may seek from the Supreme Court, pursuant to
2 California Rules of Court, an order transferring related actions to
3 a single appellate district.

4 (b) (1) No new or additional evidence may be introduced upon
5 review by the court. The review by the court may not extend further
6 than to determine, on the basis of the entire record, which shall be
7 certified by the commission, whether, in the interpretation of a
8 provision of this code, any of the following occurred:

9 (A) The commission acted without, or in excess of, its powers
10 or jurisdiction.

11 (B) The commission has not proceeded in the manner required
12 by law.

13 (C) The order or decision of the commission violates any right
14 of the petitioner under the Constitution of the United States or the
15 California Constitution.

16 (2) Nothing in this section may be construed to permit the court
17 to hold a trial de novo, to take evidence other than as specified by
18 the California Rules of Court, or to exercise its independent
19 judgment on the evidence.

20 Code, to read:

21 ~~712. It is the intent of the Legislature, in subsequent~~
22 ~~legislation, to establish policies to reform the regulation of public~~
23 ~~utilities.~~

